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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 25th July, 2014:—

I

BILL NO. XV OF 2014

A Bill further to amend the Representation of the People Act, 1951

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2014.

Short title and
Commence-
ment.

(2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

43 of 1951.

2. In section 29A of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in sub-section (7), after the existing proviso, the following proviso shall be inserted, namely:—

Amendment
of section
29A.

"Provided further that no association or body shall be registered as a political party under this sub-section, if the association or body by its conducts propagates or preaches, directly or indirectly any communal hatred or sectarian views against the people in violation of spirit of Constitution; or

Amendment
of section 30.

3. In section 30 of the principal Act, after clause (e), the following proviso shall be inserted, namely:—

"Provided that Election Commission shall not make model code of conduct, applicable or enforceable, before the first day fixed for filing of nomination for elections conducted by the Commission."

STATEMENT OF OBJECTS AND REASONS

The recognition to an association or body of citizen as political party is given by Election Commission under section 29A of the Representation of the People Act, 1951. An association or body which propagates communal hatred or sectarian views may apply for grant of recognition under section 29A. The copy of rules and regulations and memorandum of association, they file in the office of Election Commission do not necessarily represent their true intent. During elections, their true agenda comes in open and their language and actions tend to be in total violation of principles enunciated in the Constitution of India and in total disregard to the oath the candidates of these parties take before the respective returning officers. Election Commission lays stress on the code of conduct instead of provisions of Indian Penal Code and the provisions of the Representation of the People Act. Withdrawal of recognition has been made a part of the Election Symbols (Reservation and Allotment) Order, 1968 rather making a statutory provision with respect to the same. As of now, there is no clear provision in the law for such association of citizen. In order to bring purity and respectability to the election campaign and to ensure that the provisions of the Constitution of India are obeyed in letter and spirit, amendments to section 29A of the parent Act is proposed to stop the entry of such association or body into parties.

Further as per the practice, the Election Commission makes the model code of conduct applicable by holding a press conference on the same day on which the entire schedule of dates of filing of nomination, scrutiny of nomination and withdrawal of candidature, etc. Last General Elections were held in nine phases and the model code of conduct was made applicable quite ahead of the first date fixed for filing of nomination in the first phase and had been in force till the final phase was completed and announcement of results. Many development works undertaken by the appropriate Governments suffer immensely on account of long and unjustified duration of enforcement of code of conduct. The legality of code of conduct is a grey area as there is no law to deal with this subject. Election Commission is of the view that code of conduct was voluntarily arrived at by political parties and thereby the authorities cannot act, if it is violated. In fact it is not voluntary but every para of code of conduct is covered under the sections of Indian Penal Code and Representation of the People Act, 1951 and other related laws. As a result to restrict the total period during which the Commission can make the code applicable amendment is proposed to section 30 of the parent Act.

Hence, this Bill.

SHANTARAM NAIK

II

BILL NO. XIV OF 2014

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Sixty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2014.

(2) It shall come into force at once.

2. In article 324, clause (1), of the Constitution, after the following proviso shall be inserted, namely:—

“Provided that notwithstanding any judgement or order of any court, nothing in clause (1) of article 324 shall authorise the Election Commission to pass any order or issue any instruction covering a substantial area of law with respect to which Parliament has the legislative competence.”.

Short title
and
Commence-
ment.

Amendment
of article
324.

STATEMENT OF OBJECTS AND REASONS

Under article 324(1) of the Constitution of India, Election Commission of India has power of superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the legislature of every State and of elections to the offices of President and Vice-President held under this Constitution shall be vested in a Commission.

However, at times the Commission issues instructions and orders purportedly under the above clause, which cover substantive area of law. India has two substantive laws relating to the subject, namely, the Representation of the People Act, 1950 and the Representation of the People Act, 1951. These legislations are exhaustive in nature and no other legislations are needed to conduct elections in free and fair manner. The Central Government, in fact, should constitute a Committee to examine the orders and instructions issued by the Commission from time to time and identify such orders and instructions which fall within the jurisdiction of Parliament of India. Even presuming that certain reforms are needed in the two legislations referred to above, failure on the part of the Government to carry out any reforms, by way of amendments, does not entitle Commission to step in into the shoes of Parliament, when the two legislations cover each and every aspect related to elections.

Hence, this Bill.

SHANTARAM NAIK

SHUMSHER K. SHERIFF,
Secretary-General.